

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2003-23

CHARLOTTE LYNETTE GARCIA
470 Rancho La Mirada
Escondido, California 92025

Registered Nurse License No. 493242

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 27, 2003.

It is so ORDERED January 28, 2003.

Sandra L. Erickson

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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of the State of California
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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2003-23

12 CHARLOTTE LYNETTE GARCIA
470 Rancho La Mirada
13 Escondido, California 92025

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 Registered Nurse License No. 493242

15 Respondent.

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17 In the interest of a prompt and speedy resolution of this matter, consistent with the
18 public interest and the responsibility of the Board of Registered Nursing of the Department of
19 Consumer Affairs the parties hereby agree to the following Stipulated Surrender of License and
20 Order which will be submitted to the Board for approval and adoption as the final disposition of
21 the Accusation.

22 **PARTIES**

23
24 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
25 the Board of Registered Nursing. She brought this action solely in her official capacity and is
26 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
27 Loretta A. Nickerson, Deputy Attorney General.

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2. Charlotte Lynette Garcia (Respondent) is represented in this proceeding by attorney David Dietrich, whose address is 345 West 9th Avenue, Suite 200, Escondido, California 92025.

3. On or about August 31, 1993, the Board of Registered Nursing issued Registered Nurse License No. 493242 to Charlotte Lynette Garcia. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2003-23 and will expire on September 30, 2003, unless renewed.

JURISDICTION

4. Accusation No. 2003-23 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 5, 2002. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2003-23 is attached as exhibit A and incorporated herein by reference.

ADVICE AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2003-23. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent understands that the charges and allegations in Accusation
3 No. 2003-23, if proven at a hearing, constitute cause for imposing discipline upon her Registered
4 Nurse License.

5 9. For the purpose of resolving the Accusation without the expense and
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
7 establish a factual basis for the charges in the Accusation and that those charges constitute cause
8 for discipline. Respondent hereby gives up her right to contest that cause for discipline exists
9 based on those charges.

10 10. Respondent understands that by signing this stipulation she enables the
11 Board to issue its order accepting the surrender of her Registered Nurse License without further
12 process.

13 CONTINGENCY

14 11. This stipulation shall be subject to approval by the Board of Registered
15 Nursing. Respondent understands and agrees that counsel for Complainant and staff of the Board
16 of Registered Nursing may communicate directly with the Board regarding this stipulation and
17 settlement, without notice to or participation by Respondent or her counsel. By signing the
18 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
19 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
20 to adopt this stipulation as its Decision and Order, the Stipulated Surrender of License and Order
21 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
22 action between the parties, and the Board shall not be disqualified from further action by having
23 considered this matter.

24 12. The parties understand and agree that facsimile copies of this Stipulated
25 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
26 and effect as the originals.

27 13. In consideration of the foregoing admissions and stipulations, the parties

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1 agree that the Board may, without further notice or formal proceeding, issue and enter the
2 following Order:

3 ORDER

4 IT IS HEREBY ORDERED that Registered Nurse License No. 493242, issued to
5 Respondent Charlotte Lynette Garcia is surrendered and accepted by the Board of Registered
6 Nursing.

7 14. Respondent shall lose all rights and privileges as a Registered Nurse in
8 California as of the effective date of the Board's Decision and Order.

9 15. Respondent shall cause to be delivered to the Board both her License and
10 wallet certificate on or before the effective date of the Decision and Order.

11 16. Respondent fully understands and agrees that if she ever files an
12 application for licensure or a petition for reinstatement in the State of California, the Board shall
13 treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations
14 and procedures for reinstatement of a revoked license in effect at the time the petition is filed,
15 and all of the charges and allegations contained in Accusation, No. 2003-23 will be deemed to be
16 true, correct and admitted by Respondent when the Board determines whether to grant or deny
17 the petition.

18 17. Respondent shall not apply for licensure or petition for reinstatement for
19 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

20 18. Respondent shall pay the Board its costs of investigation and enforcement
21 in the amount of \$4,524.50 prior to issuance of a new or reinstated license.

22 ACCEPTANCE

23 I have carefully read the above Stipulated Surrender of License and Order and
24 have fully discussed it with my attorney, David Dietrich. I understand the stipulation and the
25 effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of
26 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the

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1 Decision and Order of the Board of Registered Nursing.

2 DATED: 9-30-02.

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5 CHARLOTTE LYNETTE GARCIA
6 Respondent

7 I have read and fully discussed with Respondent Charlotte Lynette Garcia the
8 terms and conditions and other matters contained in this Stipulated Surrender of License and
9 Order. I approve its form and content.

10 DATED: 9/30/02.


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12 
13 DAVID DIETRICH
14 Attorney for Respondent

15 ENDORSEMENT

16 The foregoing Stipulated Surrender of License and Order is hereby respectfully
17 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
18 Affairs.

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20 DATED: October 7, 2002.

21
22 BILL LOCKYER, Attorney General
23 of the State of California

24 
25 LORETTA A. NICKERSON
26 Deputy Attorney General
27 Attorneys for Complainant

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of the State of California
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10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2003-23

13 CHARLOTTE LYNNETTE GARCIA
470 Rancho La Mirada
14 Escondido, California 92025

A C C U S A T I O N

15 Registered Nurse License No. 493242

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about August 31, 1993, the Board of Registered Nursing issued Registered
24 Nurse License No. 493242 to CHARLOTTE LYNNETTE GARCIA (Respondent). The
25 Registered Nurse License was in full force and effect at all times relevant to the charges brought
26 herein and will expire on September 30, 2003, unless renewed.

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STATUTORY PROVISIONS

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2 3. Section 2750 of the Business and Professions Code (Code) provides, in pertinent
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
5 Nursing Practice Act.

6 4. Section 2764 of the Code provides, in pertinent part, that the expiration of a
7 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
8 against the licensee or to render a decision imposing discipline on the license. Under section
9 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
10 the expiration.

11 5. Section 2761 of the Code states:

12 "The board may take disciplinary action against a certified or licensed nurse or
13 deny an application for a certificate or license for any of the following:

14 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

15 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed
16 nursing functions.

17 "(f) Conviction of a felony or of any offense substantially related to the
18 qualifications, functions, and duties of a registered nurse, in which event the record of the
19 conviction shall be conclusive evidence thereof.

20 6. Section 2762 of the Code states:

21 "In addition to other acts constituting unprofessional conduct within the meaning
22 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
23 under this chapter to do any of the following:

24 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
25 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
26 or administer to another, any controlled substance as defined in Division 10 (commencing with
27 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
28 defined in Section 4022.

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PATIENT "A"

a. On 4-1-00, at 1714 hours, for patient "A," respondent withdrew (using the override function) two Clonazepam (Klonopin) 2 mg. tablets from the Pyxis system. She charted administration of 1 mg. of the drug at 2140 hours on the patient medication record, but failed to account for the remaining drug.

b. On 4-7-00, at 1627 hours, for patient "A," respondent withdrew (using the override function) two Clonazepam (Klonopin) 2 mg. tablets from the Pyxis system but failed to chart administration of the drug on the patient medication record or otherwise account for the drug.

c. On 4-7-00, at 2115 hours, for patient "A," respondent withdrew (using the override function) two Clonazepam (Klonopin) 2 mg. tablets from the Pyxis system. She charted administration on the patient record of 1 mg. at 2100 hours (prior to withdrawal), but failed to chart administration or otherwise account for the use of the remaining drug.

PATIENT "B"

d. On 4-7-00, at 1704 hours, for patient "B," respondent withdrew one Ativan (Lorazepam) 1 mg. tablet from the Pyxis system. One minute later, respondent withdrew (using the override function) two Ativan 2 mg. tablets for the same patient. She charted administration of 1 mg. of the Ativan on the patient medication record, but failed to account for the remaining drug.

PATIENT "C"

e. On 4-7-00, at 1640 hours, for patient "C," respondent withdrew (using the override function) two Lorazepam (Ativan) 2 mg. tablets from the Pyxis system, but failed to chart administration on the patient medication record or otherwise account for the drug.

f. On 4-8-00, at 1901 hours, for patient "C," respondent withdrew (using the override function) two Lorazepam (Ativan) 2 mg. tablets from the Pyxis system, but failed to chart administration on the patient medication record or otherwise account for the drug.

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1 g. On 4-8-00, at 1900 hours, for patient "C," respondent withdrew (using the
2 override function) two Hydrocodone 500 mg. (Vicodin) tablets from the Pyxis system.
3 Respondent failed to chart administration on the patient medication record or otherwise account
4 for the drug.

5 PATIENT "D"

6 h. On 4-8-00, at 1726 hours, for patient "D," respondent withdrew (using the
7 override function) two Lorazepam (Ativan) 2 mg. tablets from the Pyxis system. She charted
8 administration of 1 tablet at 2030 hours on the patient medication record, but failed to account
9 for the remaining drug.

10 i. On 4-8-00, at 2136 hours, for patient "D," respondent withdrew one
11 Lorazepam (Ativan) 1 mg. tablet from the Pyxis system, but failed to chart administration on the
12 patient record or otherwise account for the drug.

13 j. On 4-8-00, at 2138 hours, for patient "D," respondent withdrew one
14 Lorazepam (Ativan) 1 mg. tablet from the Pyxis system, but failed to chart administration on the
15 patient record or otherwise account for the drug.

16 k. On 4-13-00, at 1905 hours, for patient "D," respondent withdrew (using
17 the override function) one Lorazepam (Ativan) 1 mg. tablet from the Pyxis system, but failed to
18 chart administration on the patient record or otherwise account for the drug.

19 PATIENT "E"

20 l. On 4-13-00, at 2045 hours, for patient "E," respondent withdrew (using the
21 override function) two Clonazepam (Klonopin) 2 mg. tablets from the Pyxis system. Respondent
22 failed to chart administration on the patient administration record or otherwise account for the
23 drug.

24 m. On 4-14-00, at 1625 hours, for patient "E," respondent withdrew (using the
25 override function) two Lorazepam (Ativan) 2 mg. tablets from the Pyxis system, but failed to
26 chart administration on the patient administration record or otherwise account for the drug.

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1 n. On 4-15-00, at 1703 hours, for patient "E," respondent withdrew (using the
2 override function) two Hydrocodone (Vicodin) 500 mg. tablets. Respondent failed to chart
3 administration on the patient administration record or otherwise account for the drug.

4 SECOND CAUSE FOR DISCIPLINE

5 (Gross Negligence)

6 13. Respondent has subjected her license to disciplinary action under section
7 2761(a)(1) of the code in that in or about April, 2000, while employed as a registered nurse at
8 Tri-City Medical Center, Oceanside, California, respondent demonstrated gross negligence as
9 defined in Title 16, California Code of Regulations section 1442, when she withdrew controlled
10 substances without physicians orders or in greater dosages than ordered for the patients described
11 in paragraph 12, above.

12 THIRD CAUSE FOR DISCIPLINE

13 (Obtain a Controlled Substance)

14 14. Respondent has subjected her license to disciplinary action under section
15 2761(a) on the grounds of unprofessional conduct as defined in section 2762(a) of that code in
16 that in or about April, 2000, while employed as a registered nurse at Tri-City Medical Center,
17 Oceanside, California, she obtained Ativan, Vicodin, and Klonopin, controlled substances, in
18 violation of Health and Safety Code section 11173, by fraud, deceit, misrepresentation, or
19 subterfuge by using the override function on the Pyxis system to withdraw the drugs without a
20 physician's order and/or in amounts greater than ordered.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein
23 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License No. 493242, issued to
25 CHARLOTTE LYNNETTE GARCIA;

26 2. Ordering CHARLOTTE LYNNETTE GARCIA to pay the Board of Registered
27 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
28 Business and Professions Code section 125.3;

